THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.14837 of 2007

DATED: 13.07.2007

Between:

K.Venkateswarlu

.. Petitioner

And

The Regional Manager,
Securities and Exchange Board of India (SEBI)
D'Monte Building, 3rd floor,
32 D' Monte Colony, TTK Road,
Alwarpet, Madras-600 018
and another.

.. Respondents

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :14837 of 2007

ORDER:

In this Writ Petition, the petitioner seeks directions by way of Writ of Mandamus to the first respondent to investigate the price manipulation of the Scrip of the second respondent's company and to file a report before this Court disclosing the names of the persons/Foreign Institutions who frequently (if any) purchased and sold the same for the purpose of price manipulation, in the month of November/December, 2006 and also direct the first respondent to file action taken report regarding false information furnished by the second respondent for getting 4000 Mega Watt Sasan Power Project.

In the affidavit filed in support of the Writ Petition, it is stated that the petitioner is a retired employee of Andhra Bank and had invested some of his hard earned money in the stock market when it was in upswing. It is stated that the second respondent-company went into public issue in the year 2006, and, issued its shares at Rs.240/- each to the public, which were listed in the Bombay Stock Exchange at the rate of Rs.270/- each. It is stated that the petitioner had purchased 500 shares of the second respondent-company on 19-12-2006 at the rate of Rs.266/-, but however, all of a sudden, few months later, the scrip of the second respondent-company was traded at the rate of Rs.150/-, which is far below the listed price. It is also stated that the petitioner had sold 499 shares out of 500 shares purchased by him, on 12-06-

2007 at the rate of Rs.167/- per share and in the said transaction, he had incurred loss of Rs.50,000/-.

It is the grievance of the petitioner that the Scrip of the second respondent-Company had fallen to the rate far below the issue price during the month of November/December, 2006 only on account of manipulation by the second respondent-company. The petitioner placed reliance on the news item published in the Times of India, New Delhi, on 21-11-2006, wherein it was stated that some foreign institutional investors showed a net outflow of Rs.300 crores compared to net inflows on almost every other day of that month. With reference to the said allegation, it is stated that the petitioner got issued a notice through his Advocate, one Sri Vikram Jeet Sikand, a practising Advocate at New Delhi, to the first respondent on 02-05-2007. It is his case that in view of the provision under Section 11 of the Securities and Exchange Board of India Act, 1992, it is obligatory on the part of the Board to investigate into the matter so as to protect the interest of the investors in securities and to promote the development of, and, to regulate the securities market. As no action was taken in spite of notice got issued through an Advocate on 2-5-2007, the petitioner approached this Court for issuance of directions for investigation.

Learned Counsel appearing for the petitioner submits that fall in price of the Scrip of the second respondent-Company during November/December, 2006 indicates that there was manipulation and in spite of the same, the Board constituted under the Securities and Exchange Board of India Act, 1992, has not taken any action.

With reference to the above said submission of the learned

Counsel for the petitioner, it is to be noted that under Section 30 of the Securities and Exchange Board of India Act, 1992, Regulations are framed, titled as, 'Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 1995'. As per the said Regulations, the Board is empowered either suo motu or upon information, to cause investigation, if there is any allegation of manipulations. It is the case of the petitioner that the issue price of the second respondent-company was Rs.240/- per each share, and, listed price was Rs.270/-., but however, there was fall in the price of said shares during November/December, 2006. Merely because there is fall in the price of shares, there cannot be any automatic inference that same is on account of manipulation by the second respondent-company as alleged by the petitioner. The share price will depend on so many circumstances and if one invests in the stock market, he has to take risk of the fluctuations in the share prices. Merely because the price of the share had fallen subsequently, there cannot be any inference of manipulation. Except the presumption of the petitioner that the fall in the price of the scrip of the second respondent-company is on account of manipulation, no other material is placed before the competent authority by the petitioner in support of his allegation of manipulation. Though a notice, is stated to have been issued through his Advocate from New Delhi on 2-5-2007, but however there is no proof of service of such notice on the respondent. Even from the contents of the said notice dated 2-5-2007, there is no specific information with regard to the alleged manipulation of the said scrip by the second respondent-Company. With reference to the bid offered by the second respondent, for power project, the petitioner is not at all concerned with the same. As such, in absence of bringing to the notice of the first respondent-

Board, any specific information of manipulation by the second respondent-Company, there is absolutely no basis for the petitioner to approach this Court, by way of this petition filed under Article 226 of the Constitution of India, for directions, to investigate in the matter.

The Writ Petition is totally devoid of merits and is accordingly dismissed. No order as to costs

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JUSTICE R. SUBHASH REDDY

DATE: 13-7-2007
VV/Msnr.